

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)	
)	CRIMINAL No. 04-10010-PBS
v.)	
)	
MATTHEW DWINELLS)	

JOINT MOTION TO CONTINUE TRIAL AND TO EXCLUDE TIME

The parties hereby move to continue the trial currently set for May 16, 2005 in the above-captioned matter to July 11, 18, or 25, 2005.¹ As grounds for this Motion, the parties submit as follows. First, the undersigned Assistant United States Attorney has a criminal trial scheduled to begin before Judge Gertner on May 9, 2005, which is expected to last approximately two weeks. The case before Judge Gertner was indicted prior to the case at bar, and involves a defendant who is in custody. Like the case at bar, the case before Judge Gertner is complex and involves multiple forensic and other experts. It would not be feasible to try the cases simultaneously or even in close conjunction. Second, the undersigned defense counsel has a trial beginning on May 2 before Judge Lasker, United States v. Trevis Catron, 04-10008-MEL, and has two briefs to the First Circuit due in April

¹On March 16, 2005, the Court scheduled a trial on July 11, 2005 in United States v. Rolfsema, for which the undersigned Assistant United States Attorney is the prosecutor. In the event that case proceeds to trial rather than resolves by way of a plea, the parties request that trial in this case be scheduled for July 25, 2005, to give the undersigned Assistant time in which to prepare.

in the cases of United States v. Joseph Rosa, C.A. no. 04-2535, and United States v. Rafael Rodriguez, C.A. no. 05-1082. In addition, both defense counsel and the undersigned Assistant will be working on substantive briefs regarding dispositive motions in United States v. Girard LaFortune, no. 03-10366-PBS, and will be preparing for motions hearing before this Court which are scheduled for April 27, 2005.

Mr. Dwinells is charged with attempted coercion and enticement of a minor, receipt of child pornography, and possession of child pornography. In addition to computer forensic evidence, there are issues involving consensual telephone recordings. There is a large volume of complex discovery in this case, and defense counsel simply needs more time in which to prepare this case for trial, to retain experts, and the like. Finally, one of the government's potential witnesses, who resides in the Washington, D.C. area, is expecting a baby in mid-June, 2005, and will be unavailable from approximately mid-June through early July, 2005. The parties note there is a detention hearing scheduled before Judge Swartwood the week of March 21, 2005, at which time it is possible that the defendant may be released from custody on conditions.

Based on the foregoing, the parties request that the trial be re-scheduled to begin between July 11, 18, or 25, 2005, and that the time between now and the new trial date be excluded in the interests of justice.²

Respectfully submitted,

MATTHEW DWINELLS
By His Attorney

Respectfully submitted,

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By:

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Trial Attorney

²The parties note that defense counsel has a three-week pre-paid vacation scheduled to begin on August 13, 2005, one of the prosecutors has a vacation planned to attend a wedding August 4-7, 2005, and that one of the prosecutors is planning her wedding for the end of August, 2005, after which she will be on her honeymoon in early September. Because trial is expected to last 7-10 days, a date in August is not feasible for the parties.